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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,764	11/12/2003	Mario Balzarini	Z01-143	7799

7590

10/05/2005

R. Neil Sudol  
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EXAMINER

MAGUIRE, LINDSAY MONICA

ART UNIT PAPER NUMBER

3634

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*He*

## Office Action Summary

Application No.

10/706,764

Applicant(s)

BALZARINI ET AL.

Examiner

Lindsay M. Maguire

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/13/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

This Office Action is in response to the application and preliminary application filed on November 12, 2003. It is noted that Claims 1 and 5 were amended.

#### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that applicant remove 'or the like' from the title.

The specification is objected to because of the following informalities: missing letters in words, examples are: page 1, line 1 'Fi ld,' line 30 'lies n,' etc. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claim 1, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim 1 recites the limitation "the extension" in Line 6. There is insufficient antecedent basis for this limitation in the claim. Applicant is suggested to replace the word 'the' with 'an'.

Claim 2 recites the limitations "the ends" and "the free edge" and "engage" in Line 13. There is insufficient antecedent basis for this limitation in the claim. Applicant is suggested to remove 'the' from 'the ends', replace 'the' with 'a' in 'the free edge', and change 'engage' to 'for engaging.'

Claim 4 recites the limitations "the ends" and "the free edge" in Line 19. There is insufficient antecedent basis for this limitation in the claim. Applicant is suggested to remove 'the' from both.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 through 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Blom U.S. Patent No. 2,684,766.

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Blom discloses a stackable container, paper holder or the like, comprising a base (14) that lies on a substantially horizontal plane (Figure 1), a back wall (13) that lies on a substantially vertical plane, and side members (12, 16), said side members comprising, on each lateral edge of said base, at least one plate that lies substantially at right angles to said edge of the base on a plane that is angled about a vertical axis with respect to the extension of said edge, said edge being provided with a recess that is adjacent to each one of said plates and accommodates one end of a corresponding plate that belongs to an adjacent container that is stacked together with said container, in a storage or shipping condition having a means for mutually engaging two adjacent containers (Figure 4), said means engaging said adjacent containers in a use condition of said container (21) (The device Blom is fully capable of performing the function as set forth in Claim 1, see Figures 1, 2, and 4). As to Claim 2, (Figure 2), additionally it is noted that the "Wherein" clause (i.e. "wherein side engagement means comprises two protrusions that are formed at the ends of the free edge of said back wall and engage corresponding notches formed in the lateral edge of a similar tray that is stacked above") is no different than Blom which includes such. In regards to Claim 3, the "Wherein" clause (i.e. "where in said engagement means comprises two protrusions that are formed at the ends of the free edge of said back wall and engage corresponding notches formed in the lateral edge of a similar tray that is stacked below.") is no different than what is clearly shown in Blom (Figure 2) to includes the aforementioned features (17). As to Claim 4, (see Figure 3), showing rear protrusions formed at the ends of the free edge of the back wall and engaging corresponding rear holed formed on the lower

surface of the base of an overlying tray. As to Claim 5, (see Figure 3), showing an engagement means comprising front holes, accommodating a front protrusion of each plate of a similar tray that is stacked below.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Lockwood U.S. Pat. No. 2,940,602, the Grosse U.S. Pat. No. 3,750,892, the Goodrich U.S. Pat. No. 4,441,615, and the Wenkman U.S. Pat. No. 5456,366, are cited for illustrating a stackable container paper holders.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Maguire whose telephone number is 571-272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571)272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "Jennifer E. Novosad". The signature is fluid and cursive, with the first name "Jennifer" and last name "Novosad" clearly legible.

Jennifer E. Novosad  
Primary Examiner  
Art Unit 3634

LMM

9/30/05